

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS MCALLEN DIVISION

JUANA CRUZ, OFELIA	§	
BENAVIDES, JOSE ELIAS NG,	§	
GABRIELA VELAZQUEZ,	§	
RICARDO GONZALO, MELESIO	§	
CRUZ, ANGELICA CHAVEZ,	§	
CONCEPCION PEREZ, OLGA	§	
PEREZ, MAURICO SANCHEZ,	§	
JORGE MAULEON, HECTOR	§	
SANCHEZ, HECTOR	§	
GONZALEZ, YESSY PEREZ	§	
MARTINEZ MARIA DE	§	
LOURDES CRUZ, RESENDO	§	
LIEVANOS, ELIZABETH LARA,	§	
LUIS ALBERTO ZUNGIA	§	
CASTILLO, MIGUEL	§	
CABALLERO SANCHEZ,	§	
GUILLERMO DE LA CRUZ	§	
MENDOZA, CARLOS DANIEL	§	
LOPEZ, GILDA RIVAS,	§	CIVIL ACTION NO.:
ARMANDO MORALES DE	§	7:23-cv-00343
LLANO, LAZARO GARCIA,	§	
MARIA DE JESUS MEDINA,	§	
RICHARD ESQUIVEL,	§	
PATRICIA CONDE-GONZALEZ,	§	
NORMA CONDE ALANIZ,	§	
RAFAEL SANCHEZ,	§	
GUILLERMO RUIZ, ROSA	§	
QUINTANILLA	§	
Individually,	§	
<i>Plaintiffs,</i>	§	
v.	§	
DELGAR FOODS, INC D/B/A/	§	
DELIA'S TAMALES	§	
<i>Defendants.</i>	§	JURY DEMANDED

**PLAINTIFFS' OPPOSED MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Rule 15(a) of the federal Rules of Civil Procedure Plaintiffs, JUANA CRUZ, OFELIA BENAVIDES, JOSE ELIAS NG, GABRIELA VELAZQUEZ, RICARDO GONZALO, MELESIO CRUZ, ANGELICA CHAVEZ, CONCEPCION PEREZ, OLGA PEREZ, MAURICO SANCHEZ, JORGE MAULEON, HECTOR SANCHEZ, HECTOR GONZALEZ, YESSY PEREZ MARTINEZ MARIA DE LOURDES CRUZ, RESENDO LIEVANOS, ELIZABETH LARA, LUIS ALBERTO ZUNGIA CASTILLO, MIGUEL CABALLERO SANCHEZ, GUILLERMO DE LA CRUZ MENDOZA, CARLOS DANIEL LOPEZ, GILDA RIVAS, ARMANDO MORALES DE LLANO, LAZARO GARCIA, MARIA DE JESUS MEDINA, RICHARD ESQUIVEL, PATRICIA CONDE-GONZALEZ, NORMA CONDE ALANIZ, RAFAEL SANCHEZ, GUILLERMO RUIZ, ROSA QUINTANILLA in the above-referenced matter, and move this Court for leave to file their Second Amended Complaint in this case. The grounds follow:

1. *Under Rule 15(a), leave to amend a petition is to be “freely given when*

justice so requires.” The emphasis is on “freely given”, and courts have repeatedly explained that this provision governing amended pleadings is to be liberally construed in favor of permitting amendments. Absent factors counseling against permitting the amendment, such as filing in bad faith, or efforts to cause undue delay in the pending proceedings, then pleading amendments should be permitted.

2. The decision of whether to grant leave to amend nevertheless remains within the discretion of the district court, which may deny leave to amend due to “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [and] futility, of amendment.” *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962). An outright refusal to grant leave to amend without a justifying reason is, however, an abuse of discretion. *Id.* Plaintiff has corrected the parties to the case, removing claims, and correcting the petition.

3. The proposed changes to Plaintiffs’ Complaint are to amend the pleadings and to add DELIA GARZA INDIVIDUALLY, and to add an additional cause of action pursuant to 18 U.S.C. § 1962.

4. Submitted simultaneously as Exhibit A with this Motion for Leave to File

is Plaintiffs' proposed Second Amended Complaint.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray for the Court to grant this motion, and order their Second Amended Petition to be filed by the Clerk, and for whatever further the Court deems just and proper in the premises.

Respectfully submitted,

/s/ Ricardo Gonzalez

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CERTIFICATE OF CONFERENCE

I certify that on the 17th day of June 2024, I communicated with opposing counsel via an email, and they are opposed to this Motion.

/s/ Richard Alamia
Richard Alamia

CERTIFICATE OF SERVICE

This is to certify that on August 7, 2024, a true and correct copy of this Motion for Leave was served upon all interested parties via CM/ECF to the following:

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/s/ Ricardo Gonzalez
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